

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2696 of 1998

with

SPECIAL CIVIL APPLICATIONS No 2491 & 2492 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MP BHAYANI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2696 of 1998

Ms Sejal Sutar for MR VH DESAI for Petitioner
Ms Harsha Devani, AGP with MR SP HASURKAR
for Respondent No. 2

2. Special Civil Application No 2491 & 2492 of 1998

Mrs Sangeeta Pahwa for M/S THAKKAR ASSOC. for Petitioner
Ms Harsha Devani, AGP with MR SP HASURKAR
for Respondent No. 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 28/07/98

COMMON ORAL JUDGEMENT

In this Group of Special Civil Application, the petitioners seek direction not to revert them from the cadre of Dy. Mamlatdar in pursuant to the notice dated 19.3.1998. A further prayer has been made for preparation of seniority list list of Dy.Mamlatdars showing the position as on 1.1.1998. By the impugned notice, the petitioners have been called upon to show cause as to why each of the petitioners be not posted in the Clerical cadre on completion of the election work. It is contended that before the petitioners were assigned the election work, they were already in the cadre of Dy.Mamlatdar and therefore, the question of reverting them to the clerical cadre does not arise. An affidavit-in-reply has been filed by Mr P M Joshi, Chitnis to Collector, Jamnagar. It is stated that the petitioners are sought to be reverted not only for the reason that the election work is over. In fact, on account of continuation of temporary posts created for election purpose, the order is required to be passed and the petitioners are to be considered as passing the examination within the specified chances and time, the seniority will be from the date of entry. It is also submitted that the seniority list has been prepared as per the directions given by the Division Bench of this Court in the case of Malek vs. State of Gujarat and ors., reported in 1992 (1) GLR 704. It is further stated that the petitioners holding the post of Dy. Mamlatdars on officiating basis under Rule 18 of the Gujarat Civil Services (Discipline and Appeal) Rules, 1971.

2. Having heard the learned Advocates for the parties, I am of the view that this group of Special Civil Applications is premature at this stage as having approached at the stage of show cause notice. The petitioners have some grievance with respect to fixation of their seniority. They may first submit reply to the show cause notice. They may raise the question of fixation of their seniority in the reply to the show cause notice or by separate representation. Thus, it is considered appropriate to dispose of this group of Special Civil Application by directing the respondents that after reply of the subject show cause notice is given, if representation with respect to the seniority is made within a period of two weeks from today, the same shall be decided within a period of four weeks from the

date of receipt of such representation. Till such representation and the question of seniority is decided, the petitioners shall not be reverted. If the question of seniority is decided against the petitioner, the same shall not be given effect for a period of one week. This group of Special Civil Applications stands disposed of. Notice in each Applications is discharged.

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msp.